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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,984	07/21/2004	Adreas F. Schaub	2923-763	3383

6449	7590	01/03/2008
ROTHWELL, FIGG, ERNST & MANBECK, P.C.		
1425 K STREET, N.W.		
SUITE 800		
WASHINGTON, DC 20005		

EXAMINER	
HOFFER, SUSANNA MARIE	

ART UNIT	PAPER NUMBER
1615	

NOTIFICATION DATE	DELIVERY MODE
01/03/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary

Application No.

10/501,984

Applicant(s)

SCHAUB, ADREAS F.

Examiner

Susanna Hoffer

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-16 and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-16 and 18-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgement is made for the applicant's response and amendment filed on October 11, 2007.

Response to Arguments

Applicant's arguments, see p. 6, paragraph 1, filed October 11, 2007, with respect to the rejection(s) of claim(s) 12, 13, and 15-22 under 102 (b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a newly found prior art reference.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 12, 13, 15, 16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over K-Y Jelly.

K-Y Jelly, a well known lubricant produced since 1904, contains no alkali metal salts of metaphosphates and is in the form of a water-based gel composition. Glycerol and hydroxyethyl cellulose are the organic lubricating ingredients.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use K-Y Jelly to ease vaginal child birthing in a woman because its use as a vaginal and medical lubricant is well known.

Claims 12-14, and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardy (US 4,981,686).

Hardy teaches a personal lubricant containing one or more of petrolatum, coconut oil, anhydrous lanolin, mineral oil, egg albumen, and stearyl alcohol as lubricants; aloe vera, lanolin, and allantoin as healing agents and sodium lauryl sulfate as an emulsifier and wetting agent (col. 2, lines 5-14). The lubricant is preferably available in a cream form (col. 1, lines 56-57) and the healing agents are intended to promote healing of vaginal tissue if irritation and inflammation are present (col. 1, lines 31-34). An example including weight percentages of the ingredients is taught at line 50 of column 2.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the lubricant taught by Hardy to ease vaginal child birthing in a woman. One would have been motivated to do this because the composition taught by Hardy is useful as a vaginal lubricant and additionally contains healing agents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna Hoffer whose telephone number is (571)272-9345. The examiner can normally be reached on Monday - Friday, 9:00 a.m.-5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571)272-8373. The fax phone


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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMH


MICHAEL P. WOODWARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600